

**ASSEMBLY BILL**

**No. 2580**

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**Introduced by Assembly Member Olsen**

February 19, 2016

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An act to amend Section 300 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2580, as introduced, Olsen. Homeless youth: dependency proceedings.

Existing law provides that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court in certain cases, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 300 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 300. A child who comes within any of the following
- 4 descriptions is within the jurisdiction of the juvenile court which
- 5 may adjudge that person to be a dependent child of the court:

1 (a) The child has suffered, or there is a substantial risk that the  
2 child will suffer, serious physical harm inflicted nonaccidentally  
3 upon the child by the child’s parent or guardian. For purposes of  
4 this subdivision, a court may find there is a substantial risk of  
5 serious future injury based on the manner in which a less serious  
6 injury was inflicted, a history of repeated inflictions of injuries on  
7 the child or the child’s siblings, or a combination of these and other  
8 actions by the parent or guardian that indicate the child is at risk  
9 of serious physical harm. For purposes of this subdivision, “serious  
10 physical harm” does not include reasonable and age-appropriate  
11 spanking to the buttocks if there is no evidence of serious physical  
12 injury.

13 (b) (1) The child has suffered, or there is a substantial risk that  
14 the child will suffer, serious physical harm or illness, as a result  
15 of the failure or inability of his or her parent or guardian to  
16 adequately supervise or protect the child, or the willful or negligent  
17 failure of the child’s parent or guardian to adequately supervise  
18 or protect the child from the conduct of the custodian with whom  
19 the child has been left, or by the willful or negligent failure of the  
20 parent or guardian to provide the child with adequate food,  
21 clothing, shelter, or medical treatment, or by the inability of the  
22 parent or guardian to provide regular care for the child due to the  
23 parent’s or guardian’s mental illness, developmental disability, or  
24 substance abuse. A child shall not be found to be a person described  
25 by this subdivision solely due to the lack of an emergency shelter  
26 for the family. Whenever it is alleged that a child comes within  
27 the jurisdiction of the court on the basis of the parent’s or  
28 guardian’s willful failure to provide adequate medical treatment  
29 or specific decision to provide spiritual treatment through prayer,  
30 the court shall give deference to the parent’s or guardian’s medical  
31 treatment, nontreatment, or spiritual treatment through prayer alone  
32 in accordance with the tenets and practices of a recognized church  
33 or religious denomination, by an accredited practitioner thereof,  
34 and shall not assume jurisdiction unless necessary to protect the  
35 child from suffering serious physical harm or illness. In making  
36 its determination, the court shall consider (1) the nature of the  
37 treatment proposed by the parent or guardian, (2) the risks to the  
38 child posed by the course of treatment or nontreatment proposed  
39 by the parent or guardian, (3) the risk, if any, of the course of  
40 treatment being proposed by the petitioning agency, and (4) the

1 likely success of the courses of treatment or nontreatment proposed  
2 by the parent or guardian and agency. The child shall continue to  
3 be a dependent child pursuant to this subdivision only so long as  
4 is necessary to protect the child from risk of suffering serious  
5 physical harm or illness.

6 (2) The Legislature finds and declares that a child who is  
7 sexually trafficked, as described in Section 236.1 of the Penal  
8 Code, or who receives food or shelter in exchange for, or who is  
9 paid to perform, sexual acts described in Section 236.1 or 11165.1  
10 of the Penal Code, and whose parent or guardian failed to, or was  
11 unable to, protect the child, is within the description of this  
12 subdivision, and that this finding is declaratory of existing law.  
13 These children shall be known as commercially sexually exploited  
14 children.

15 (c) The child is suffering serious emotional damage, or is at  
16 substantial risk of suffering serious emotional damage, evidenced  
17 by severe anxiety, depression, withdrawal, or untoward aggressive  
18 behavior toward self or others, as a result of the conduct of the  
19 parent or guardian or who has no parent or guardian capable of  
20 providing appropriate care. A child shall not be found to be a  
21 person described by this subdivision if the willful failure of the  
22 parent or guardian to provide adequate mental health treatment is  
23 based on a sincerely held religious belief and if a less intrusive  
24 judicial intervention is available.

25 (d) The child has been sexually abused, or there is a substantial  
26 risk that the child will be sexually abused, as defined in Section  
27 11165.1 of the Penal Code, by his or her parent or guardian or a  
28 member of his or her household, or the parent or guardian has  
29 failed to adequately protect the child from sexual abuse when the  
30 parent or guardian knew or reasonably should have known that  
31 the child was in danger of sexual abuse.

32 (e) (1) The child is under the age of five years and has suffered  
33 severe physical abuse by a parent, or by ~~any~~ a person known by  
34 the parent, if the parent knew or reasonably should have known  
35 that the person was physically abusing the child. For the purposes  
36 of this subdivision, "severe physical abuse" means any of the  
37 following: ~~any~~

38 (A) A single act of abuse which causes physical trauma of  
39 sufficient severity that, if left untreated, would cause permanent

1 physical disfigurement, permanent physical disability, or ~~death;~~  
2 ~~any death.~~

3 (B) A single act of sexual abuse which causes significant  
4 bleeding, deep bruising, or significant external or internal ~~swelling;~~  
5 ~~or more swelling.~~

6 (C) More than one act of physical abuse, each of which causes  
7 bleeding, deep bruising, significant external or internal swelling,  
8 bone fracture, or ~~unconsciousness; or the.~~ *unconsciousness.*

9 (D) The willful, prolonged failure to provide adequate food. ~~A~~

10 (2) A child shall not be removed from the physical custody of  
11 his or her parent or guardian on the basis of a finding of severe  
12 physical abuse unless the social worker has made an allegation of  
13 severe physical abuse pursuant to Section 332.

14 (f) The child's parent or guardian caused the death of another  
15 child through abuse or neglect.

16 (g) The child has been left without any provision for support;  
17 physical custody of the child has been voluntarily surrendered  
18 pursuant to Section 1255.7 of the Health and Safety Code and the  
19 child has not been reclaimed within the 14-day period specified  
20 in subdivision (g) of that section; the child's parent has been  
21 incarcerated or institutionalized and cannot arrange for the care of  
22 the child; or a relative or other adult custodian with whom the child  
23 resides or has been left is unwilling or unable to provide care or  
24 support for the child, the whereabouts of the parent are unknown,  
25 and reasonable efforts to locate the parent have been unsuccessful.

26 (h) The child has been freed for adoption by one or both parents  
27 for 12 months by either relinquishment or termination of parental  
28 rights or an adoption petition has not been granted.

29 (i) The child has been subjected to an act or acts of cruelty by  
30 the parent or guardian or a member of his or her household, or the  
31 parent or guardian has failed to adequately protect the child from  
32 an act or acts of cruelty when the parent or guardian knew or  
33 reasonably should have known that the child was in danger of  
34 being subjected to an act or acts of cruelty.

35 (j) The child's sibling has been abused or neglected, as defined  
36 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk  
37 that the child will be abused or neglected, as defined in those  
38 subdivisions. The court shall consider the circumstances  
39 surrounding the abuse or neglect of the sibling, the age and gender  
40 of each child, the nature of the abuse or neglect of the sibling, the

1 mental condition of the parent or guardian, and any other factors  
2 the court considers probative in determining whether there is a  
3 substantial risk to the child.

4 It is the intent of the Legislature that this section not disrupt the  
5 family unnecessarily or intrude inappropriately into family life,  
6 prohibit the use of reasonable methods of parental discipline, or  
7 prescribe a particular method of parenting. Further, this section is  
8 not intended to limit the offering of voluntary services to those  
9 families in need of assistance but who do not come within the  
10 descriptions of this section. To the extent that savings accrue to  
11 the state from child welfare services funding obtained as a result  
12 of the enactment of the act that enacted this section, those savings  
13 shall be used to promote services which support family  
14 maintenance and family reunification plans, such as client  
15 transportation, out-of-home respite care, parenting training, and  
16 the provision of temporary or emergency in-home caretakers and  
17 persons teaching and demonstrating homemaking skills. The  
18 Legislature further declares that a physical disability, such as  
19 blindness or deafness, is no bar to the raising of happy and  
20 well-adjusted children and that a court's determination pursuant  
21 to this section shall center upon whether a parent's disability  
22 prevents him or her from exercising care and control. The  
23 Legislature further declares that a child whose parent has been  
24 adjudged a dependent child of the court pursuant to this section  
25 shall not be considered to be at risk of abuse or neglect solely  
26 because of the age, dependent status, or foster care status of the  
27 parent.

28 As used in this section, "guardian" means the legal guardian of  
29 the child.